


UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

FILED
SCRANTON

OCT 31 2013

PER 
DEPUTY CLERK

JOSEPH BREELAND,
Plaintiff,

v.

SGT. COOK,
Defendant.

CIVIL ACTION NO. 3:12-CV-2511

(Judge Kosik)

MEMORANDUM AND ORDER

AND NOW, this 31st day of October, 2013, IT APPEARING TO THE
COURT THAT:

(1) Plaintiff, Joseph Breeland, a prisoner confined at the State Correctional Institution at Forest, Pennsylvania, filed the instant civil rights action pursuant to 42 U.S.C. §1983 on December 17, 2012;

(2) The action was assigned to Magistrate Judge Martin C. Carlson for Report and Recommendation;

(3) On October 9, 2013, the Magistrate Judge issued a Report and Recommendation (Doc. 34) wherein he recommended that Defendant's motion for summary judgment (Doc. 23) be denied;

(4) Specifically, the Magistrate Judge finds that regarding the exhaustion of administrative remedies, a factual conflict exists as to the timeliness of Plaintiff's final appeal of his grievance;

(5) No timely objections have been filed to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(6) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his

claims. 28 U.S.C.A. §636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985).

Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987);


(7) We have considered the Magistrate Judge's Report and we concur with his recommendation;

ACCORDINGLY, IT IS HEREBY ORDERED THAT::

(1) The Report and Recommendation of Magistrate Judge Martin C. Carlson dated October 9, 2013 (Doc. 34) is **ADOPTED**;

(2) Defendant's motion for summary judgment (Doc. 23) is **DENIED**; and

(3) The above-captioned action is **REMANDED** to the Magistrate Judge for further proceedings.



Edwin M. Kosik
United States District Judge